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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,641	03/01/2004	Darrell Reginald May	ID-399 (80211)	9761

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EXAMINER	
RAMAKRISHNAIAH, MELUR	
ART UNIT	PAPER NUMBER
2614	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/790,641	MAY ET AL.	
	Examiner	Art Unit	
	Melur Ramakrishnaiah	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-13,16-21,24-27 and 30-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-13,16-21,24-27 and 30-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3-1-04,10-13-04,*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims *1,4-13,16-21,24-27 and 30-42* are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 10/790,479. Although the conflicting claims are not identical, they are not patentably distinct from each other because, for example, claim 21, of the present application is an obvious variation of claim 16 of copending Application No. 10/790,479.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1,4-5, 6-12, 13, 16-18, 20, 21, 24-26, 27, 30-32, 33-36, 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koskan (UA PAT: 6,181,956) in view of Kuboyama et al. (US 2004/0186728, filed 1-26-2004, hereinafter Kuboyama).

Regarding claim 1, Koskan discloses a mobile wireless communication device, comprising: a wireless transceiver (220/290, fig. 2) and a controller (240, fig. 2) cooperating therewith for receiving text messages from the wireless communication network (130, fig. 1), the controller being switchable between a normal message mode and an audio message mode, a user interface device (250, fig. 2) connected to the controller for receiving at least one of audio mode filter parameter from a user (reads on mode selection or keyword or type identifier), and an audio output (125, figs. 1, 3) connected to the controller, the controller, when in the audio message mode, selecting received text messages based on at least one audio mode filter parameter, and outputting audio messages comprising speech generated from the selected text messages via the headset output (figs. 1-4; col. 1, line 56 – col. 3, line 56).

Regarding claim 13, Koskan discloses a communication system comprising at least one mobile wireless communications device comprising: a wireless transceiver

(220/290, fig. 2) and a controller (240, fig. 2) cooperating therewith for receiving text messages, the controller being switchable between a normal message mode and an audio message mode, a user interface (250, fig. 2) connected to the controller for receiving at least one audio mode filter parameter (reads on mode selection), from a user, and an audio output (125, figs. 1, 3) connected to the controller, the controller, when in the audio message mode, selecting received text messages based upon the at least one audio mode filter parameter(reads on mode selection or keyword or type identifier), and outputting audio messages comprising speech generated from the selected text messaged via the headset output, and a wireless communications network (130, fig. 1) for sending text messages to the at least one mobile wireless communication device (120; figs. 1-4; col. 1, line 56 – col. 3, line 56).

Koskan differs from claims 1 and 13 in that although he discloses the controller switching between normal message mode and audio message mode based upon a mode selection by a switch and other criteria (claim 1; col. 3 lines 9-15); he does not explicitly teach: the controller switching between normal message mode and audio message mode based upon a connection between and headset output and a headset.

However, Kuboyama discloses information service apparatus and information service method which teaches: the controller switching between normal message mode and audio message mode based upon a connection between and headset output and a headset (paragraphs: 0024-0025, 0052, 0074).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Koskan's system to provide for the following: the

controller switching between normal message mode and audio message mode based upon a connection between and headset output and a headset as this arrangement would provide, one method, among many possible methods, to automatically direct audio output to the headset based on detection of connection status of headset to the communication device as taught by Kuboyama.

Claims 21 and 27 are rejected on the same basis as claims 1 and 13.

Regarding claim 33, Koskan discloses a mobile wireless communication device comprising: a wireless transceiver (220, fig. 2) and a controller (240, fig. 2) cooperating therewith for receiving text messages from a wireless communication network (130, fig. 1), the controller being switchable between a normal message mode and an audio message mode, a user interface device (250, fig. 2) connected to the controller for receiving one audio mode filter parameter for a user (reads on mode selection or keyword or type identifier), and an audio output (125, figs. 1, 2) connected to the controller, the controller when in audio message mode, selecting the received text messages based upon at least one audio mode filter parameter (reads on mode selection or keyword or type identifier), outputting audio messages comprising speech generated from selected text messages via the audio output (figs. 1-4; col. 1, line 56 – col. 3, line 56).

Regarding claim 38, Koskan discloses a method for using a mobile wireless communications device comprising a user interface, and an audio output, the mobile wireless communication device being switchable between a normal message mode and audio message mode, the method comprising: receiving text messages from a wireless

communications network (130, fig. 1), and receiving at least one audio mode filter parameter from a user via the user interface device (reads on mode selection or keyword or type identifier), switching the mobile wireless communication device between the normal message mode and audio message mode, wherein in the audio message mode, selecting received text messages based on one audio mode filter parameter (reads on mode selection or keyword or type identifier), and outputting audio messages comprising speech generated from the selected text messages via the audio output (figs. 1-4; col. 1, line 56 – col. 3, line 56).

Koskan differs from claims 33 and 38 in that although he teaches switching mobile communication device between normal message mode and audio message mode based upon a mode selection by a switch and other criteria (claim 1; col. 3 lines 9-15); he does not explicitly teach: switching mobile communication device between normal message mode and audio message mode based upon a connection between audio output and an audio device.

However, Kuboyama teaches the following: switching mobile communication device between normal message mode and audio message mode based upon a connection between audio output and an audio device (paragraphs: 0024-0025, 0052, 0074).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Koskan's system to provide for the following: switching mobile communication device between normal message mode and audio message mode based upon a connection between audio output and an audio device as this

arrangement would provide, one method, among many possible methods, to automatically direct audio output to the headset based on detection of connection status of headset to the communication device as taught by Kuboyama.

Regarding claims 4, 6-12, 16-18, 20, 24-26, 30-32, Koskan teaches that: headset output comprising a wireless headset output for establishing a wireless connection with a headset (125, figs. 1, 3), controller (240, fig. 1) switches between the normal message mode and the audio message mode based upon an audio message mode command provided by a user via the user interface device (250, fig. 2), text-to-speech module (reads on 260, fig. 2) cooperating with the controller to convert the selected text message to the audio messages, at least one audio message filter parameter comprises: a sender identifier, at least one keyword (col. 3 lines 9-15), user interface device comprises keypad (not shown) connected to the controller, display (252, fig. 2) connected to the controller for displaying text messages, wireless transceiver comprises a cellular transceiver (120; figs. 1-4; col. 1, line 56 – col. 3, line 56).

Koskan differs from claim 5 in that he does not teach the following: headset output comprises a headset jack for a wired headset.

However, Kuboyama teaches the following: headset output comprises a headset jack for a wired headset (paragraph: 0055).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Koskan's system to provide for the following: headset

output comprises a headset jack for a wired headset as this arrangement would facilitate playing messages through a wired headset as taught by Kuboyama.

Claims 34 and 39 are rejected on the same basis as claim 5.

Regarding claims 35-36,40-41, Koskan further teaches the following: audio device comprises a wireless headset (125, figs. 1 and 3), and wherein audio output comprises a wireless headset output for establiashing wireless connection with the wireless headset, controller (240, fig. 2) switches between normal message mode and audio message mode based upon an audio message mode provided by a user via the user interface (250, fig. 2; (figs. 1-4; col. 1, line 56 – col. 3, line 56).

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koskan in view of Kuboyama as applied to claim 13 above, and further in view of Miller et al. (US PAT: 6,421,707, hereinafter Miller).

The combination differs from claim 19 in that he does not teach the following: controller is also for generating conversion requests for selected text messages and cooperating with the wireless transceiver to forward the conversion requests to the wireless communication network, wherein wireless communication network receives the conversion requests and further comprises a text-to-speech module for converting the selected text messages to audio messages based upon the conversion requests, and wherein the wireless communication network sends the audio messages to at least one wireless communication device.

However, Miller teaches the following: controller is also for generating conversion requests for selected text messages and cooperating with the wireless transceiver to

forward the conversion requests to the wireless communication network, wherein wireless communication network receives the conversion requests and further comprises a text-to-speech module for converting the selected text messages to audio messages based upon the conversion requests, and wherein the wireless communication network sends the audio messages to at least one wireless communication device (figs. 1, 4; col. 3 lines 16-65; col. 5, line 42 – col. 6, line 40).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: controller is also for generating conversion requests for selected text messages and cooperating with the wireless transceiver to forward the conversion requests to the wireless communication network, wherein wireless communication network receives the conversion requests and further comprises a text-to-speech module for converting the selected text messages to audio messages based upon the conversion requests, and wherein the wireless communication network sends the audio messages to at least one wireless communication device as this arrangement would facilitate centralized location for processing messages to satisfy user requirements as taught by Miller.

6. Claims 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koskan in view of Kuboyama as applied to claims 33 and 38 above, and further in view of Hung (US PAT: 6,772,143, filed 1-2-2001).

The combination differs from claims 37 and 42 in that although he discloses at least one audio message filter parameter comprises at least one of keyword or

message type identifier (col. 3 lines 9-15); he does not explicitly teach: audio message filter parameter which is sender identifier.

However, Hung teaches setting up various message filter parameters including sender identifier (abstract; col. 10 lines 52-65).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: audio message filter parameter which is sender identifier as this arrangement would facilitate to sort messages according to various message filters to satisfy user needs as taught by Hung.

Response to Arguments

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melur Ramakrishnaiah
Primary Examiner
Art Unit 2614